
MAINE BOARD OF DENTAL EXAMINERS

TO: ACTING COMMISSIONER OF THE DEPARTMENT OF
PROFESSIONAL AND FINANCIAL REGULATION, ANNE HEAD
ASSISTANT TO THE COMMISSIONER, DOUG DUNBAR

FROM: TENEALE E. JOHNSON, BOARD ASSISTANT

SUBJECT: SUNRISE REVIEW SURVEY

DATE: AUGUST 8, 2007

Please find attached the Boards response to questions posed in the Sunrise Review Survey document. If you have any questions, please do not hesitate to contact the Board office.

Thank you,

Teneale E. Johnson, Board Assistant

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General Information

1. Group or organization you represent:

State of Maine Board of Dental Examiners

2. Position on proposed legislation:

- LD1246 – The Board of Dental Examiners can neither support nor oppose the creation of a mid-level hygienist license category at this time. While the possible expansion of the scope of practice has been reviewed, there are no educational criteria available to evaluate. Expanding the scope of practice for hygienists cannot be possible without expanding the educational requirements as well. Education, minimal competency testing, and continuing education requirements will all need to be addressed prior to the Maine Board of Dental Examiners taking a position on the expansion of the scope of practice for hygienists. As the present legislation is written, the Board has serious reservations about a mid-level practitioner performing extractions, pulpotomies, and restorations without being able to review educational criteria.
- LD 550 – The Board takes no position on LD 550 providing that the current scope of practice for dental hygienists does not expand beyond the current level of education, experience, and skill.
- LD1129 – The standards acceptable to the Maine Board of Dental Examiners already exist in our statute and rules. In order to apply for licensure in Maine, candidates must be graduates of accredited schools who have received that status from the Council of Dental Accreditation (CODA) of the American Dental Association. CODA has the expertise and resources to evaluate facilities, curriculum, faculty, and patient care in the institutions that request their review. Additionally, periodic CODA review and approval is necessary as an ongoing measure of a schools ability to provide certain educational standards. There is no other entity that the Board would find acceptable. Any foreign university would need to meet CODA standards and as such any of its graduates would be eligible for licensure in Maine providing all other requirements, such as successful completion of a regional or national dental examination, are met.

There is currently a mechanism in place for licensing of graduates of foreign dental programs. In fact, each year, the Board of Dental Examiners issues licenses to a number of individuals who were educated in foreign schools or universities. This existing pathway to licensure requires graduates of foreign dental schools or universities to complete an extension of their education at a CODA approved dental program that ensures that their training, education, and clinical skills meet the minimum standards required of all U.S. and Canadian educated candidates for licensure. During a recent interview with the Board, a foreign educated and trained graduate who completed a CODA approved dental program for international students stated that she would not have been competent to enter practice based upon her foreign education and training alone. The applicant confirmed what the Board has long known, that no mechanism exists to evaluate foreign universities or dental schools. That is why the CODA approved system has been the Board's standard for educational requirements for licensure.

- LD1462 – The Maine Board of Dental Examiners would oppose the creation of a new licensing board for denturists and hygienists. While there are certainly adequate numbers of hygienists in Maine to support their own board, hygienists in their educational training and experience have no knowledge of the practice of denturism. Conversely, denturists are not prevention specialists either. These two specialties of dentistry are so far removed from each other that they cannot

support one another in a board setting. The number of practicing denturists in Maine is so low that there could not help but be continuing conflicts of interest in rule making, licensing, and disciplinary issues. For example, there are approximately 14 actively practicing denturists in Maine. There are two business entities that involve 9 of those 14. The numbers suggest that conflict of interest issues alone would preclude the formation of a separate board. Recent legislation has created subcommittees of the Maine Board of Dental Examiners to give the denturists and hygienists more voice and control over licensure and disciplinary issues for these licensees. Both committees are chaired by the respective licensees and both committees have a majority of either denturists or hygienists. A super majority vote of the entire Maine Board of Dental Examiners is required to reject their recommendations to the Board. This has never happened to date and as such the present system seems to be working very well. The Board of Dental Examiners is open to the concept of expanding the existing responsibilities of the current subcommittees on dental hygiene and denturism. The Board believes that the responsibilities of the subcommittees should be uniform as they relate to their specific area of dentistry. Such a change would permit the Board to create equality of responsibility of the subcommittees in the completion of their duties.

Evaluation Criteria:

1. Data on group proposed for regulation

a. There are currently:

14 licensed denturists in Maine of which our records indicate are actively practicing

819 licensed dental hygienists in Maine of which our records indicate are actively practicing

b. Names and Addresses:

Maine Denturism Society
7 Moore Street
Hartland, ME 04945
207-938-5870

Maine Dental Hygiene Association
Michelle O'Clair Gallant, RDH, (Current President)
37 Chickawaukie Pond Road
Rockport, ME 04856

2. Specialized Skill:

- Mid-level dental hygienists category (LD1246) – The creation of this category of dental care giver would allow certain restorative procedures as well as some oral surgery procedures to be performed by a person other than a licensed dentist which is now the case. Clearly, the public does not have the knowledge and expertise to assess the competency of these individuals without assurance of minimal competency. There are currently no levels of licensure under the dental practice act that do not require assurance of minimal qualifications.
- Dental hygienists practicing independently (LD550) – All hygienists are currently required to provide proof of minimal qualifications and meet continuing educational standards. The Board would not expect LD550 to change this standard.

- Dental graduates of foreign universities (LD1129) – This is a potentially dangerous piece of legislation for the citizens of the State of Maine. With no assurance of the depth, breadth, and quality of an education in a foreign country the public cannot be expected to be able to select a competent individual to be their dentist. The education of a dentist is too complex and interdependent on academic vs. clinical vs. ethical training that the public could never make the determination of an individual's competency on its own. To think otherwise would support the notion that no healthcare provider in Maine need provide assurances that minimal qualifications have been met.

3. Threat to Public Health, Safety, or Welfare:

- If such proposed legislation on the expansion of scope of practice for dental hygienists and /or the licensing of graduates of foreign universities is not enacted, there will be no potential harm to the public. The single argument that this proposed legislation makes is that access to care for underserved Maine Citizens will be expanded. That argument assumes far more than this legislation proposes. The assumption is that a significant number of dental hygienists will undergo the additional training that will be required to become a mid-level dental hygienist. In order to make any impact on the underserved need, upwards to one hundred hygienists would need to commit their careers to this change. This in itself would not guarantee that they would choose to work where they were most needed. The legislation does not address the re-imbursement rates for MaineCare services that are woefully inadequate. Simply put, the access to care issue is more complex than the creation of a new category of caregiver can address.

It is the understanding of the Board that states such as Colorado, that have allowed the independent practice of dental hygiene have seen no significant change in the traditional practice model. The evolution of the dental hygienist as part of a dental delivery team has occurred because it works. Greater efficiency, productivity, and continuity of quality care cannot be achieved by this additional avenue of dental hygiene practice. The Board predicts that, if enacted, a disappointing few hygienists will take advantage of this model which will have no measurable impact on the access to care issues facing Maine citizens.

In regards to licensing graduates of foreign universities, the Board believes that the protection of the citizens of Maine should be paramount. As a Board committed to the health and safety of Maine citizens, we cannot stress enough, the need for any training program – foreign or domestic – to meet existing standards for educating potential licensees of dentistry. A review of any dental educational program can only be done through an independent evaluation of published and acceptable standards by the Commission on Dental Accreditation of the American Dental Association.

- Because each of these proposed expansions in the regulation of hygienists and graduates of a foreign university are new, the Board can cite no specific evidence of harm including complaints where the public's health, safety or welfare has been threatened. Having been precluded by statute from these duties, hygienists or graduates of foreign (non CODA approved) institutions have not delivered this dental care to the public.

There has been some concern however, about a recent expansion of duties for Public Health Supervision (PHS) hygienists who, while having a supervising dentist on paper, essentially work alone in non-traditional settings. Recent legislation has allowed PHS hygienists to place temporary fillings in teeth that they deem can benefit from the procedure. The Board has received several concerns – not rising to the level of complaints – that some PHS hygienists are placing these temporary fillings outside the parameters of the treatment algorithms set up for them by the Board. The Board views this as an educational/training issue rather than a disciplinary one and is working with all parties of interest to improve the situation. Clearly any expansion of the scope of practice for any license category will result

in more potential for improper treatment or improper treatment selection. The Board would hope that as the learning curve expands such improper treatment would decrease.

4. Voluntary and Past Regulatory Efforts

The Board can make no comment about what graduates of foreign universities may have done to protect the public because it is unaware of any. In regard to dental hygiene, there is an active, but relatively small number of hygienists in Maine who belong to the Maine Dental Hygiene Association and its parent organization, the American Dental Hygiene Association. It is quite clear that this professional organization has drawn less than one quarter of the licensed hygienists in Maine into its membership. The Board finds this disappointing in that membership in a professional organization provides many educational and professional enhancements. It also indicates that the dental hygiene organizations do not represent the vast majority of practicing hygienists in Maine. The Board is in no position to draw inferences from this as to whether this is a good or a not-so-good thing for Maine citizens.

5. Costs and Benefits of Regulation

- **a mid-level dental hygienist:** The creation of a mid-level dental hygienist will, in the opinion of the Board, have little impact on dental costs and benefits. We come to that conclusion based on our belief that far too few hygienists will be interested in attaining mid-level status to make any real difference. Unless they become employees of already established and subsidized public health clinics, the financial realities of mid-level practice will drive most of these potential licensees back to more traditional delivery systems. The Board does not see private fee-for-service practices employing this level of licensee.
- **dental hygienists practicing independently:** Again the potential numbers of hygienists willing to go this route is so small that no positive or negative financial impact can be predicted. If the Board is wrong in its assumption, then the cost to Maine citizens for dental care could possibly increase. Here's how it might work. If a large number of hygienists opt to leave the traditional model of hygiene delivery for independent practice, there will be severe shortage of qualified staff to fill the void. Private fee-for-services practices will be competing more than ever for this shrinking pool of qualified employees. Salaries and benefits would increase due to the supply and demand algorithm and these costs would be passed on to the public in terms of higher fees for the services rendered. The Board wishes to restate that we don't believe there will be a stampede of hygienists from the traditional model and therefore does not expect this to happen. In addition, for the same reasons, the Board does not believe that significant numbers of hygiene professionals would be attracted to Maine.
- **dental graduates of foreign universities:** The Board sees no effect on costs and benefits as it sees no change in the number of foreign dental graduates being licensed presently.
- **a new licensing board for denturists and hygienists:** Clearly, the costs of maintaining another board with its staff and expenses has to come from licensing fees for hygienists and denturists. The Board feels that its present costs are not going to decrease proportionally from the loss of revenue from denturists and hygienists. Therefore even if denturist and hygiene registration fees stay the same, registration fees for dentists in Maine will have to go up significantly which will likely be offset by higher fees passed on to patients. This will likely result in higher fees for procedures and an increased financial burden on the public.

6. Service Availability Under Regulation:

- **a mid-level dental hygienist:** If enough hygienists are willing to undergo the time and expense to become mid-level practitioners, there can be a positive effect on access to care for

Maine's underserved population. In our opinion, this would take an estimated 100-200 positions located in high need areas to accomplish this goal. The Board does not see fee-for-service patients becoming a staple in the practice of a mid-level hygienist. Most people in moderate to higher income levels will opt to stay in their traditional settings where the scope of practice exists to meet all of their families' dental needs. The clear source of untapped patient care is with the segment of our population that cannot afford care in a traditional setting. Even then, a mid-level practitioner can only meet a portion of their needs. The Board foresees a constant push to expand their scope of practice and is very concerned that educational training requirements will not keep pace.

- **dental hygienists practicing independently:** The limited number of hygienists that may choose to practice independently will not increase the amount of preventive care that is now being delivered. There is a finite number of hygienists and they are currently seeing a finite number of patients for prevention and education. Whether they remain in traditional settings or work independently will have no effect on the numbers of services currently being delivered. If this is the goal then more qualified licensees is the answer, not whether or not they practice independently.
- **dental graduates of foreign universities:** Unless more foreign universities have their dental programs reviewed and approved by the Council on Dental Accreditation (CODA) of the American Dental Association (ADA), this legislation will have no effect on the number of dentists that will be licensed in Maine.
- **a new board for denturists and hygienists:** The Board believes this will have no effect on the number of patients who may receive care here in Maine. The Board does not see this as an avenue to attract more practitioners to Maine. That is much more likely to occur only if future legislatures create a more "business friendly" climate.

7. Existing Laws and Regulations:

The Maine Board of Dental Examiners feels that existing legal remedies are adequate to prevent or redress the kinds of harm potentially resulting from this proposed legislation.

8. Method of Regulation:

No Comment

9. Other States:

? Colorado and Washington

10. Previous Efforts to Regulate:

- **a mid-level dental hygienist:** None.
- **dental hygienists practicing independently:** Multiple (The Board does not have specific data on this)
- **dental graduates of foreign universities:** ? None.
- **a new licensing board for denturists and hygienists:** ? Legislature created the standing subcommittees for denturism and dental hygienists in 2003.

11. Minimal Competence

The Board is most concerned that proposed requirements for regulation are not fully researched, identified, and agreed upon by professional educators to assure that appropriate knowledge, skill, and experience will be guaranteed in the educational process of any new level of dental care provider. The Board feels strongly that before any such legislation should be considered that recommended levels of education and training must be an integral part of the legislation. The Board would urge the legislature not to pass any legislation with the intention of requesting the Board to define the educational piece at a later date. There must also be a mechanism for an independent minimal competency testing prior to the entrance of any new level of dental care provider into the oral health care work force. This is currently done for all licensees and must remain consistent for any new category of provider. Continuing education standards must also be clarified prior to the passage of legislation.

12. Financial Analysis:

Any change occurring from this proposed legislation must be born directly by the licensees via licensing and renewal fees and indirectly by the patients who avail themselves of these dental services by way of the fees charged for services rendered.

13. Mandated Benefits:

The Board has no comment on what any profession or occupation may plan to apply for mandated benefits.